

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRENT LUYSTER,

Plaintiff,

V.

RIC BISHOP, et al.,

Defendants.

Case No. C18-6022-BHS-TLF

ORDER GRANTING EXTENSION AND RENOTING MOTION

Plaintiff is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to

42 U.S.C. § 1983. Plaintiff's complaint was docketed and served on December 27, 2018. Dkt. 5.

Defendants filed an answer on February 26, 2019, which included, at the end, a one-line request

for dismissal of the action. Dkt. 12. On March 15, 2019, plaintiff filed a document entitled

“opposition” to defendants’ answer in which he objected to dismissal of the action. Dkt. 16. On

March 18, 2019, defendants filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) which

was noted for April 12, 2019. Dkt. 17. On April 25, 2019, plaintiff filed a response in opposition.

to defendants' motion to dismiss. Dkt. 18.

In a letter to the Court included with his response, plaintiff explains that he was confused

by defendants' motion since defendants had already requested dismissal in their answer and he

had filed opposition. Dkt. 18. He explains he was unsure whether he should respond to the

motion and so contacted an attorney to arrange for representation. *Id.* Although it appears he did

not obtain representation, plaintiff indicates it was suggested he file a response to defendants'

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1 motion. *Id.* The Court construes plaintiff's letter as a request for an extension of time to respond
2 to defendants' motion to dismiss.

3 Because plaintiff is pro se, and has given a reasonable explanation for the delay, the
4 Court grants plaintiff's request for an extension and will consider plaintiff's response to
5 defendants' motion to dismiss. The Court will also consider plaintiff's previously filed
6 "opposition" to defendants' answer (Dkt. 16), to the extent relevant, in determining defendants'
7 motion to dismiss. *See e.g. Jones v. Blanas*, 393 F.3d 918, 923 (9th Cir. 2004) (Court may
8 consider pro se litigant's contentions offered in motions and pleadings, where such contentions
9 are based on personal knowledge and set forth facts that would be admissible in evidence, and
10 where the litigant attested under penalty of perjury that the contents of the motions or pleadings
11 are true and correct in determining whether to grant summary judgment).

12 To prevent any prejudice to defendants, **on or before May 13, 2019**, defendants may file
13 a reply to plaintiff's response to their motion to dismiss and, in doing so, may also reply to any
14 arguments included in plaintiff's "opposition" to defendants' answer (Dkt. 16). The Clerk is
15 directed to **renote defendants' motion to dismiss (Dkt. 17) to May 13, 2019**.

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17 Dated this 29th day of April, 2019.

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21 Theresa L. Fricke
22 United States Magistrate Judge
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